



Washington, D.C. 20505

OLL 85-1213
25 APR 1985

Ms. Terri Ann Lowenthal
Subcommittee on Postal Personnel
and Modernization
Committee on Post Office
and Civil Service
House of Representatives
Washington, D.C. 20515

Dear Ms. Lowenthal:

Enclosed is the item we discussed
recently. It reflects our earlier discussion.

Office of Legislative Liaison

Enclosure

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Distribution:

Original - Addressee

1 - D/OLL (w/o enc)

1 - DD/OLL "

1 - LEG/Subj:Misc/Personnel (w/encl)

1 - PS Signer (w/o encl)

✓ 1 - OLL Chrono (w/o encl)

OLL:LEG:PS:dpt (16 April 1985)

Retyped:PS:pap (25 April 1985)

EXPLANATION OF PERSONNEL GUIDELINES OF THE CENTRAL INTELLIGENCE AGENCY

An employee of the Central Intelligence Agency may be terminated for one or more of the following reasons:

- Failure to satisfactorily complete trial period.
- Failure to meet work and efficiency requirements.
- Failure of contract employee to adhere to terms of contract.
- Placement for two consecutive years in lowest evaluation category.
- Failure to meet security or medical standards.
- Failure to meet Agency standards of conduct.
- Legal incompetence.
- Employee determined to fall in category of excess personnel.
- In any other circumstances where such action is required in the interests of the United States as determined by the Director of Central Intelligence.

The following are the general procedures for termination of Agency employment:

- The head of the employee's career service recommends to the Director of Personnel (D/OP) that the employee be terminated.
- The D/OP notifies the employee of the recommendation, together with the reasons therefor.
- The employee may comment orally or in writing to the D/OP.

- If the D/OP agrees that the employee should be terminated from the Agency, the recommendation is forwarded to the Director of Central Intelligence (DCI) for a decision.
- The employee is advised that he or she may appeal the recommendation in writing to the DCI.
- The employee's appeal is sent to the DCI.
- The DCI reviews the D/OP's recommendation and the employee's appeal and determines whether or not to adapt the recommendation to terminate the employee.
- The DCI's decision is provided to the employee.

These procedures may be modified depending upon the particular reasons for the termination; e.g., termination of contract employees may be governed by terms of the contract. In all cases, of course, the full legal authorities of the DCI are reserved.

*See
New*OLL 85-0427/2
14 March 1985

MEMORANDUM FOR THE RECORD

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SUBJECT: H.R. 917 & Dymally Letter -
Call from Terri Ann Lowenthal

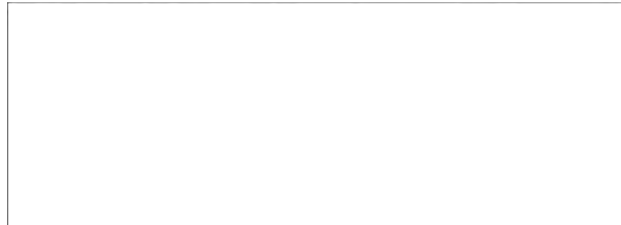
1. On March 11, 1985, I was called by Ms. Terri Ann Lowenthal of Representative Dymally's staff. Ms. Lowenthal is a staff member of the Postal Personnel Subcommittee of the House Committee on Post Office and Civil Service, a Subcommittee which Representative Dymally chairs. Ms. Lowenthal was calling, however, as the Representative's personal staffer and not as a subcommittee staffer. She had been put in touch with me by [redacted] whom she had first called. Ms. Lowenthal was calling in response to the letter from Director, Office of Legislative Liaison, to Representative Dymally. That letter was, in turn, in response to Representative Dymally's letter of January 29, 1985.

2. Ms. Lowenthal acknowledged receipt of the D/OLL letter. She noted that the letter had not really responded to any of the questions. She indicated that the Representative would like a more complete response. Having said that, however, she acknowledged that, by virtue of another provision in Title 5, the Agency might not be included in the excepted service. She further acknowledged that the Agency might not be covered by the veterans' preference statutes. She also acknowledged that some of the information in question would be classified. She, nevertheless, reiterated that the Representative would like more of a response.

3. I reiterated the substance of our letter. I did not acknowledge anything in regard to what statutes did or did not cover the Agency. I did acknowledge that we would have a problem with providing some of the figures as they would be classified. I also raised the issue that some of the classification concerns might overlap into the issue of providing regulations/policies.

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4. We concluded the discussion with a promise by me to look into whether further information could be provided, perhaps in the form of a sanitized version of the Agency's termination procedures, and to get back to her when I had a response.



Distribution:

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STAT



Washington, D.C. 20505

OLL #85-0427/1

28 FEB 1985

The Honorable Mervyn M. Dymally
House of Representatives
Washington, D.C. 20515

Dear Mr. Dymally:

The Director of Central Intelligence has asked me to respond to your letter of 29 January 1985, concerning the "Excepted Service".

In creating the Central Intelligence Agency, the Congress recognized that the Agency would need certain special authorities, not given to other Federal agencies (whether in the Excepted or Competitive Service), in order to accomplish the unique mission which the Congress envisioned for it. Accordingly, the Congress authorized the Agency to establish and maintain its own personnel system. That system was to be separate and distinct from the Civil Service system. While the Agency system bears some facial resemblance to the Civil Service system, it is really quite different as it is founded upon, and proceeds from, a separate basis (i.e., the need to give the Agency the flexibility to meet its unique mission). Bearing these considerations in mind, it does not seem that the detailed information concerning positions within the Agency which your letter seeks would be useful in remedying the problems you perceive with the Government-wide "Excepted Service".

You should know that there are a wide variety of procedural safeguards set forth in Agency policies. The Agency recognizes that the avoidance of arbitrary and capricious personnel actions, through the employment of such safeguards, is absolutely necessary to the achievement of a stable and efficient work force which, in turn, is crucial to the achievement of the Agency's mission.

I trust this is responsive to your letter.

Sincerely,

/s/Charles A. Briggs

Charles A. Briggs
Director, Office of Legislative Liaison



85- 594

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Congress of the United States
House of Representatives
Washington, D.C. 20515

LEGISLATIVE LIAISON
85-6437

January 29, 1985

Honorable William J. Casey
Director
Central Intelligence Agency
Washington, D.C. 20505

Dear Mr. Casey:

In recent months, several cases have been brought to my attention which involve the termination of Federal employees in the Excepted Service. As a Member of the Committee on Post Office and Civil Service, these cases are of concern to me because they demonstrate the complete lack of due process afforded Excepted Service employees upon termination from their positions, with the exception of those who are veterans' preference eligibles.

While I understand the rationale for excepting certain occupations from the competitive service, I believe that all Federal employees who have served in the government for two years should be afforded due process rights before they are summarily dismissed. Therefore, I intend to introduce remedial legislation which will ensure that Excepted Service employees, who have served continuously for twenty-four (24) months and are not in confidential or policy-determining positions, are given the administrative due process rights enjoyed by career employees in the competitive service.

The Office of Personnel Management has informed me that nearly one million Civil Service employees hold "excepted" positions. While some of these employees are granted career-status after several years, others serve in the Federal government for many years without ever gaining protection from adverse personnel actions, as set forth in Chapter 75 of Title V. In order to assist in this review of the Excepted Service, I would appreciate your providing the following information:


1. The number of employees in your department/agency who are in Excepted Service positions. Please note how many of these employees are in Schedule C or Senior Executive Service (SES) positions, or are appointments confirmed by the Senate.

Honorable William J. Casey
January 29, 1985
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2. The number of these Excepted Service employees who are veterans' preference eligibles.
3. A breakdown of the "excepted" workforce by occupation.
4. The average number of years of Federal government service for each "excepted" occupation.
5. The number of Excepted Service employees who have been terminated from your department/agency in fiscal years 1982 through 1984.
6. An explanation of special department/agency guidelines, if any, which govern adverse personnel actions against Excepted Service employees. This information will be compared with the rights extended to employees in the competitive service in adverse action situations.

Thank you very much for your assistance in this matter.
Your response by February 28th will be appreciated.

Sincerely,


MERVYN M. DYMALLY
Member of Congress